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SENATE

{ REPORT
No. 181 }

JOSEPH BERNSTEIN

MARCH 19 (legislative day, MARCH 16), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 473]

The Committee on the Judiciary, to which was referred the bill (S. 473) for the relief of Joseph Bernstein, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Joseph Bernstein. The bill provides for an appropriate quota deduction and for the payment of the required head tax and visa fee.

STATEMENT OF FACTS

The beneficiary of the bill is a 36-year-old native of Rumania and a naturalized citizen of Palestine. He last entered the United States on October 18, 1947, as a visitor. For 12 years he was first violinist and soloist with the Palestinian Orchestra and was a member of the faculty of the Palestinian Conservatory of Music. Since his arrival in the United States he has given concerts in a number of cities in behalf of the United Jewish Appeal fund-raising drives.

A letter dated August 25, 1949, to the chairman of the Senate Committee on the Judiciary from the Assistant to the Attorney General with reference to S. 301, which was a bill introduced in the Eighty-first Congress for the relief of the same alien, reads as follows:

DEPARTMENT OF JUSTICE,
Washington, August 25, 1949.

HON. PAT McCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice with respect to the bill (S. 301) for the relief of Joseph Bernstein, an alien.

The bill would provide that Joseph Bernstein, presently residing in New York, shall be considered to have been lawfully admitted into the United States for permanent residence as of the date of his last entry into this country, upon payment of the required head tax and visa fee. It would also direct the Secretary of State to instruct the quota-control officer to deduct one number from the appropriate immigration quota.

The files of the Immigration and Naturalization Service of this Department disclose that Joseph Bernstein, who is single, was born in Rumania on August 17, 1914, and is a naturalized citizen of Palestine. He entered the United States at the port of New York on October 18, 1947, when he was admitted as a temporary visitor for a period of 6 months. The period of stay was extended to April 30, 1949. Prior to coming to this country, Mr. Bernstein resided for 12 years in Palestine where he was the first violinist and soloist with the Palestinian Orchestra. He was also a member of the faculty of the Palestinian Conservatory of Music. Since coming to this country, he has given concerts in a number of cities in behalf of the United Jewish Appeal fund-raising drives. He also had a summer engagement to teach music at the Berkshire Music Festival at Tanglewood, Mass., and he gives private lessons to a few pupils. His earnings from all sources average about \$200 a month.

The quota for Rumania, to which the alien is chargeable, is oversubscribed and a visa is not readily obtainable, but the record fails to disclose sufficient reason to justify granting him a preference over other persons chargeable to the quota for Rumania.

Accordingly, this Department is unable to recommend enactment of the bill.

Yours sincerely,

PEYTON FORD,
The Assistant to the Attorney General.

Senator Brien McMahon, the author of the bill, has submitted the following information in support of the bill:

BENNET, HOUSE & COUTS,
New York 5, N. Y., November 15, 1950.

HON. BRIEN McMAHON,
Norwalk, Conn.

DEAR SENATOR McMAHON: At the request of a number of Connecticut friends of Joseph Bernstein you introduced in the Senate in this Congress some time ago S. 301. I know that the immigration staff there has done some work on it because Mr. Bernstein has been interviewed. There are two sets of facts, however, that have never been brought to your attention.

The first is that Mr. Bernstein if he had been familiar with our immigration laws when he left Tel Aviv in 1947 could have come in as a nonquota immigrant. He is one of the world's most talented violinists and a concert violinist of the highest rank and taught the violin in Tel Aviv for some time. After he arrived in this country he was given a contract by the Julius Hartt School of Music of Hartford, Conn. I took the matter up for him with the United States Consul at Montreal. There was no objection made to the American contract but my attention was called to the fact that we needed proof of his teaching ability from abroad. We got an affidavit from the gentleman who had been director of the Palestine Conservatoire of Music in Jerusalem, Inc., but he is now in this country and no longer the head of that institution, and therefore that affidavit was not official.

I wrote more than once to the registrar of the branch of the conservatory in Tel Aviv where Mr. Bernstein did the teaching but got no answer. It happens that I have four or five close friends who are members of the Knesset (Parliament) in Israel and one of them went personally to see the registrar. I enclose a copy of the letter he wrote me which shows that while Mr. Bernstein had the necessary experience as a professor in that school he is being and will be denied any proof from Israel because they will not do anything to assist a national of Israel to be-

come a citizen of another country. That is just the sort of situation that a congressional bill is designed to meet and I think that both you and the experts will take that view of it now that it is being brought to your attention. Just at the moment the passage of the bill has become vitally important. Some months ago the Sadlers Wells Ballet Co. came to the United States and commenced a tour with a group consisting of about 100 people, approximately half of whom were British subjects and the other half American citizens with the sole exception, as I understand it, of Mr. Bernstein with his Israel nationality. Mr. Bernstein was engaged for the most important managerial position, that of concert manager, in which he does two things: first, he handles all the details of each performance—the dancers, for instance, get all their cues from him; second, when the premiere ballet dancer does her solo Mr. Bernstein is her only accompanist. The company goes into Canada twice, the first time leaving Chicago for Winnipeg on December 31 and the second time leaving White Plains, N. Y., for Toronto on January 15, 1951. This necessitates Mr. Bernstein, if he is to accompany the troupe, going out of the United States twice and returning twice; the second time after the British members of the group have left for England in the latter part of January 1951. When the attention of the managers of the group was called some time ago to the fact that no difficulty was anticipated in getting the necessary exit permits from the Canadian authorities but that there would be considerable difficulty in getting action by our Government to permit Mr. Bernstein to come back from Canada the company endeavored to obtain a substitute for Mr. Bernstein for the Canadian trips, but without success.

The introduction of S. 301 and Mr. Bernstein's application to come in as a non-quota immigrant have put him in the class of those seeking permanent residence in this country and therefore further extensions of his visitor's visa are impossible. On the other hand, he comes under the Rumanian quota, having been born in Bessarabia at a time when Bessarabia was a part of Rumania and the Rumanian quota is badly oversubscribed. Therefore, his only hope lies in the bill which you have introduced. The immigration experts of the Senate could better judge whether the phraseology of the bill is broad enough to cover this situation or whether an amendment is necessary. The Sadler's Wells group has caught the popular imagination wherever it has gone. Here in New York City it has played to capacity audiences in the Metropolitan Opera House for, I think, about 3 weeks and the company is going all over the United States as far west as San Francisco and having the same success everywhere. It would be a calamity to have triumphal progress which is doing a good deal toward improving British and American relations interfered with by something that can be avoided by the passage of the bill.

Fortunately, the first exit from the United States will not be until December 31. As so many people would like to see the bill pass, and as the consequence of its not passing would be distressing to so many, not only in the United States but in Canada and England, I hope it will be possible to get action. Of course, I shall come to Washington and meet anyone at any time to facilitate the passage of the bill. I might say that the matter has been taken up with the immigration authorities who are extremely sympathetic but point out that the statutes being what they are there is nothing they can do. I had it up myself with the Acting Commissioner, Mr. Argyle R. Mackey, who had an investigation made by one of his principal assistants who reported to him that the law would not permit any action to be taken by either the immigration authorities or the State Department.

Very truly yours,

WILLIAM S. BENNET.

STATE OF NEW YORK,
County of New York, ss:

Emil Hauser, being duly sworn, deposes and says:

I am director of the Palestine Conservatoire of Music in Jerusalem, Inc. I founded same in 1933. It was thereafter incorporated and I have been connected with it ever since its organization and am at present the director. In the year 1947 I held the same office. From the time of its organization to and including the year 1947, the said Conservatoire was the leading institution for the teaching of music in Palestine. It was located in Jerusalem and had a branch in Tel Aviv and its governmental head (with the title of patron) was the British High Commissioner, Sir Arthur Vauchope. For 3 years preceding the time when he came to the United States, Joseph Bernstein (also spelled Berenstein) was a teacher of the faculty. At that time, the title "professor" was not used in institutions of learning in Palestine but Mr. Bernstein as a member of the faculty and because of his

teaching occupied a position which would be described in the United States in various places as professor. Mr. Bernstein because of his experience in connection with quartet and orchestra playing and his learning in connection with violin pedagogy was a very successful teacher of the violin in the Conservatoire. I would recommend him as such to any university, college, or conservatory of music desiring a very highly qualified teacher or instructor as a professor in violin playing.

EMIL HAUSER.

Sworn to before me this 20th day of January 1949.

MARY E. GEIGLE,

Notary Public in the State of New York.

Commission expires March 30, 1950.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 473) should be enacted.

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